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SUBJECT: NUCLEAR LIABILITY ISSUES IN CHINA; CSC ACCESSION LIKELY TO
TAKE SOME TIME

REF: A. 2008 State 94537
[1](#)B. 2008 State 94977
[1](#)C. 2008 Beijing 2863
[1](#)D. 2008 State 54213

[1](#)1. (SBU) Summary and Introduction. Per ref A, DOE China Deputy Office Director and ESTHoff on September 12 and 16, 2008, led a group of nuclear industry experts to discuss nuclear liability issues and the United States May 2008 ratification of the Convention on Supplementary Compensation for Nuclear Damages (CSC) with China's newly established National Energy Administration (NEA) and the China Atomic Energy Authority (CAEA), respectively. (Note: The CSC was established in 1997 to provide a single treaty regime for nuclear liability; to date, four countries have ratified the convention. End note) NEA official Qin Zhijun, noting that China is paying close attention to nuclear liability issues in general, had invited officials from the three major nuclear power companies to join the September 12 NEA meeting. Qin noted, however, that China's accession to the CSC would need to follow implementation of a new Atomic Energy Law (AEL), on which discussions are not scheduled to even begin until after the new Energy Law is passed sometime next year. Dong Baotong, Director General of the Systems Engineering Department of CAEA, agreed that waiting until the AEL is approved by the National People's Congress would delay accession to the CSC for a long time. DG Dong said that he personally believes China should accede to the CSC before the AEL is considered, as it would be easier to draw up implementing legislation for the CSC than to complete and pass an entirely new AEL, though there are many obstacles to this approach as well. DG Dong suggested that the United States and China take additional measures to promote the CSC, including bilateral meetings with other countries (including Japan and South Korea), and calling for IAEA member states to join the CSC at the next IAEA General Conference (GC) and Board of Governors (BOG) meeting. End summary.

NEA Still Filling Ranks; Just Listening Now

12. (SBU) Qin Zhijun, formerly Director of the Power Division at the National Development and Reform Commission (NDRC), noted that China places high importance on civil nuclear liability issues, as evidenced by the State Council's issuance of Guo Han 64 in 2007. (Note: Guo Han 64, an official letter from the state council, was drafted with input from Westinghouse and the State Nuclear Power Technology Corporation (SNPTC) prior to the signing of the Westinghouse AP1000 contract in July 2007. It includes some stipulations that coincide with the CSC, such as channeling liability to the operator and putting civil claims under the jurisdiction of a single court system. Guo Han 64 also stipulates that the nuclear liability issue will be included in the new Atomic Energy Law when it is concluded. End note.) Qin had invited representatives from the three major Chinese nuclear power corporations - China National Nuclear Corporation (CNNC), Guangdong Nuclear Power Corporation (GNPC) and SNPTC - to join him for this discussion of the CSC. Qin indicated that he would rely on their expertise as China deliberates the CSC and upcoming AEL.

13. (SBU) Because the NEA, which is responsible for managing the drafting of the Energy Law, is currently being stood up, Qin noted, there will be some delay before the law can be completed. In fact, most positions at the NEA remain unfilled, and Qin himself has not yet received an official title, other than that he is in the Power Department. (Note: Qin is the only person at the NEA or NDRC who is knowledgeable at a technical level on nuclear issues. He is a trained nuclear engineer, and will likely be the key person for

developing future nuclear power programs. End note.) The NEA will also be responsible for input to the new AEL. Work on the AEL will not begin until the Energy Law is passed.

CAEA Offers to Work Towards Broader CSC Accession

14. (SBU) Dong Baotong, Director General for Systems Engineering at CAEA said that personally he thought that China should accede to the CSC first, and then pursue the AEL, since the latter will take much more time. DG Dong, China's long-time representative on the International Nuclear Liability Experts Group (INLEX) at the IAEA and an expert on the CSC, believes that it would be quicker and easier for China to write implementation legislation following accession to the treaty than to wait until the AEL is drafted and passed. However, DG Dong noted that there are two obstacles to that approach: (1) China's liability limits are insufficient to meet the CSC's threshold; and (2) the statute of limitations under China's Law on Civil Procedures does not match those required by the CSC. Dong noted that the second obstacle is the greatest challenge.

15. (SBU) Moving forward, Dong suggested that the United States encourage other countries to join the CSC at the upcoming IAEA GC and BOG. Since the United States is actively encouraging other countries to follow suit, China will hold bilateral meetings with other countries, including Japan and South Korea, most likely on the margins of the upcoming IAEA GC, to discuss the CSC, Dong said. He also noted that CAEA will review the agenda of CAEA's bilateral meeting with the United States at the IAEA GC to see if there is enough time to discuss CSC issues. DG Dong stated that he would report on the results of this meeting to CAEA Chairman Chen Qiufan. (Comment: Although DG Dong is personally in favor of quick accession to the CSC, his ability to actually convince the Chinese bureaucracy is probably limited. The State Council already set in motion the path through the AEL in Guo Han 64. Any plan to bypass this, no matter how creative, is unlikely to gain traction. However, we should endeavor to maintain close contact with Dong on this, as he is an eager ally. End comment.)

CAEA Reorganization Update

16. DG Dong also provided an update on CAEA's structure due to the ongoing reorganization. Chairman Chen, recently officially designated as CAEA Chairman, also holds the positions and titles of Chairman on the State Administration of Science Technology and Industry for the National Defense (SASTIND) and Vice Minister of the Ministry of Industry and Information Technology (MIIT). DG Dong noted that the Department of Systems Engineering consists of four

Divisions: the Division of Nuclear Reactors, Division of Nuclear Fuel (Note: Possibly Division of Nuclear Fuel Cycle. End note), Division of Nuclear Emergency and Nuclear Safety, and the Division of International Cooperation. (Comment: As Director General of Systems Engineering, Dong is in charge of the day to day activities of CAEA. According to ref C, CAEA and CNSA (China National Space Administration) are now officially the first and second systems engineering departments of SASTIND. End comment.)

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